

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

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U. S. DISTRICT COURT
MID. DIST. TENN.

TIMOTHY SHANE HIXSON, pro se,

Plaintiff,

VS.

CIVIL ACTION NO. 3:14cv955

STATE OF TENNESSEE et al.,
TENN. DEPT. OF CORRECTIONS,
COMMISSIONER, DERRICK SCHOLFIELD)
NWCX MEDICAL SERVICES, CORIZON)
DR. JOHN HOCHBERG)
SAMANTHA PHILLIPS)

Defendant (s)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS UNDER
42 U.S.C. § 1983

I. Previous Lawsuits:

A. Have you begun other lawsuits in State or Federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

YES ___ NO X

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuit on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: None

Defendants: N/A

2. Court (if Federal Court, name the District; if State Court Name the County):

N/A

3. Docket Number: N/A

4. Name of Judge whom case was assigned: N/A

5. Disposition (for example; Was the case dismissed? Was it Appealed ? Is it still pending?) N/A

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

II. Place of Present Confinement: Riverbend Maximum Security Institute
7475 Cockrill Bend Blvd., Nashville, Tennessee 37209

A. Is there a prisoner grievance procedure in this Institution? YES X NO

B. Did you present the facts relating to your complaint in the Prison Grievance Procedure? YES X NO

C. If your answer is YES:

1. What steps did you take? Filed a grievance

2. What was the result? They deemed it inappropriate.

D. If your answer is NO, explain why not: N/A

III. Parties:

(In item A place your full name and address. Do the same for additional plaintiffs, if any. In item B below, place the full name of the Defendant in the blank marked B and his Official Position and place of Employment. Do the same for additional Defendants, if any).

A. Name of Plaintiff: Timothy Shane Hixson #300915

Address: RMSI, 7475 Cockrill Bend Blvd.

Nashville, Tennessee 37209

Additional Plaintiffs: N/A

B. Name of Defendant: State of Tennessee

Address: N/A

Additional Defendants: Tennessee Department of Corrections
Address: N/A

Additional Defendants: Commissioner Derrick Schofield
Address: Rachel Jackson Bldg, 6th Fl,
320 6th Ave. N.
Nashville, Tennessee 37243-0465

Additional Defendants: Samantha Phillips, Health Administrator
Address: NWCX
960 St. Rt. 212
Tiptonville, Tennessee 38079

Additional Defendants: NWCX Medical Services/Corizon
Address: 960 St. Rt. 212
Tiptonville, Tennessee 38079

Additional Defendants: Dr. John Hochberg
Address: NWCX
960 St. Rt. 212
Tiptonville, Tennessee 38079

IV. Statement of Claim:

State here as briefly as possible the **facts** of your case. Describe how each Defendant is involved. Include also the names of other persons involved, date, and places. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph.

In December of 2012, I put in several sick-call requests to the medical services complaining that I was having a lot of severe pain in my abdominal area. Each time I did, the doctor, Dr. John Hochberg, just kept telling me that it was normal for me to have such pains from time to time due to a pre-existing medical condition. I have had Hepatitis C for years and it was North West Correctional Complex (to be referred to as NWCX, henceforth) which started me on Interferon, thus the combination of both had resulting in my liver problems.

A Sworn Affidavit from my Cell Mate, from during this time, is included stating the pain and duration of this pain I was going through (See Exhibit A).

I continued to have the severe pain and kept putting in sick-call requests. Finally, in July of 2013, I got Dr. Hochberg's attention when he noticed how yellow my skin and eyes were. He then ordered some blood test to be done (See Exhibit B).

On July 12, 2013, I was called to the clinic and was seen by the Nurse Practitioner (Amanda Collins) instead of seeing Dr. Hochberg. Ms. Collins told me that my blood test results showed that there was a possibility that I had developed liver cancer and that an ultrasound was scheduled to find out more. I asked Ms. Collins if TDOC was going to pay for the specialized

treatments or, if need be, a liver transplant. She (Ms. Collins) told me that they don't pay for those type things. I then asked her why they were going to give me an ultrasound. She said that it was just for their records. These tests should have been done months earlier and maybe my condition would not have worsened.

I filled out a grievance on July 13, 2013 to find out about getting some type of treatments for my condition and not just tests for record's sake. I never received a response to this grievance nor did I meet the grievance board about this grievance.

On July 30, 2013, the ultrasound was done, but was NOT given the results at that time. I was also not able to see Dr. Hochberg for some unknown reason. I let Ms Collins know I needed to see the doctor so I could get something for the continuing pain in my stomach.

I continued to put in sick-call requests to see Dr. Hochberg for pain medication. It wasn't until August 21, 2013 that I finally got to see Dr. Hochberg. At that time, he informed me that I did not have cancer, but my Gallbladder needed to be taken out. I asked him; "Why?" Dr. Hochberg said the Gallbladder was malfunctioning and it needed to come out. He also told me that "I" needed to go research this for myself before agreeing to have it done. I told him that IF it would stop the pain I wanted it done. I then, also ask Dr. Hochberg for something for the severe pain I was having in my abdomen. He told me that he would give me something and for me to pick-it-up at the medication window that evening.

When I went to the medication window for the medication that evening, I found that Dr. Hochberg had prescribed Tylenol. Tylenol should never be prescribed to anyone like myself who has liver problems.

The nurse at the medication window that night noticed the order was for Tylenol. She knew I had a liver condition took it on herself to discontinue the order saying; "No one with liver problems like me should be taking Tylenol." However, I did not receive anything for the pain at that time or could I get anything for pain during the time I was at NWCX.

I found out later that Dr. Hochberg quit his job at NWCX a few days after I saw him. For several weeks after that there was no doctor there to see about my condition or to prescribe medication for the pain. I continued to suffer with the severe pain in my abdominal area and I was told by the medical staff there at NWCX that there was no one who could prescribe anything for me.

On October 24, 2013, I was shipped from NWCX to the "Staff" unit at River Bend Maximum Security Institute (henceforth, RMSI). On November 1, 2013, I put in an Emergency sick call request because the pain in my stomach was so intense. At that time I was placed on Moltrin 600, but it does not help with the pain I am suffering.

The health care group that was in charge of medical services at NWCX was a company called Corizon. To my understanding, their contract run-out and the health care services for the Tennessee Department of Corrections (henceforth, TDOC) signed a new contract with a company called Centurion.

After being transferred to RMSI, I was able to talk with the Grievance coordinator, Sergeant Leonard. With his help beginning in November of 2013, I finally was able to find out about the grievance which I filed back on July 13, 2013; this was four months without any kind of response. It was not until Sergeant Leonard began making phone calls and looking into this grievance that I learned what had been done. Even at that time, I still never met a Grievance Board to state my case nor did I ever sign anything to have it forwarded.

It wasn't until November, with Sergeant Leonard's help, that I learned that Samantha

Phillips, the health care administrator at NWCX at that time, denied the grievance. Sgt. Leonard gave me a copy of the grievance at that time which was the first time I had any knowledge of the grievance I filed in July.

Ms Phillips response was that the grievance was inappropriate, but she sent it on to the next level. It was signed off by Warden Henry Stewart and sent on to the Commissioner's office. Whereas of November of that year, I still had not received any word to this grievance, which goes against policy. By policy, if a grievance is deemed inappropriate, it may still be sent on through channels, but it should be returned to the inmate filing the grievance notifying him it was deemed inappropriate.

Finally, on December 17, 2013 (Five (5) months after filing the grievance) I received a response to the grievance from NWCX (See Exhibit C). Note this was after having Sgt. Leonard at RMSI make phone calls and check into this for me.

On December 23, 2013, while at RMSI, I was sent for a CT Scan. It wasn't until February 12, 2014 did I learn the results of this CT Scan; two month after the Scan. It was told to me that I had a *Gallstone* trapped in the neck of my *Gallbladder* and that I had an *Inflamed Spleen*. I was told that these were the reason I was having the severe pain in my abdominal area which had been going on for at least a year at that time. Also, this CT Scan confirms what the Ultrasound showed back in August of 2013.

Now as of April of 2014, I have still not received the surgery I have been told I need to alleviate the pain in my abdominal area. It is eight (8) months since being diagnosed by T.D.O.C. medical staff (Corizon) that I needed this surgery. In addition, I have not received a proper pain medication for the pain in my abdominal area other than Moltrin. Also, I have not received any treatments for the damage to my liver which is an on going problem also diagnosed by T.D.O.C. medical staff. Now, it has been nearly a year of suffering and without any treatment for the serious conditions I have.

It is the State of Tennessee, the Tennessee Department of Corrections, and the Commissioner of Prisons, Derrick Scholfield's, responsibility to see that Inmates receive adequate medical care as set forth by the 8th Amendment Rights. These rights have been violated and I am still suffering with my untreated conditions which are worsening.

V. Relief:

1. That this Court grant the 42 U.S.C.A. §1983 Complaint;

2. That the Court Order the surgery and the treatments I need.

3. That the Court Order each Defendant to pay both Compensatory non-economic and economic damages including but not limited to all damages recoverable under the United States Constitution and/or 42 U.S.C.A. § 1983 and/or the laws of the State of Tennessee;

4. Punitive damages;

5. Reasonable Attorney Fees, costs and interest; and the State of Tennessee/
Tennessee Department of Correction pays for all court costs and fees as a
result of this suit;

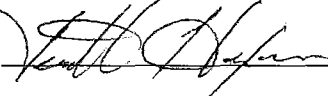
6. The amount of controversy exceeds \$ 75, 000 dollars exclusive of interest,
costs and fees;

7. This Honorable Court allow further reasonable amendments as necessary;

8. That the plaintiff be awarded any other relief this Court deems appropriate
and equitable.

I (We) hereby certify under penalty of perjury that the above petition is true to the best of my (our) information, knowledge and belief.

Signed this 5th day of April, 2014.


#300915
RMSI, Cockrille Bend Blvd.
Nashville, TN 37209
(Signature and address of Plaintiff (s))